

February 17, 2012

REGULAR MEETING MINUTES  
ILLINOIS CIVIL SERVICE COMMISSION  
February 17, 2012

I. CALL TO ORDER THE REGULAR OPEN MEETING AT 11:04 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; Ares G. Dalianis<sup>1</sup>, Garrett P. FitzGerald, and Susan Moylan Krey, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director; Roneta Taylor (by telephone) and Mark Magill (by telephone), Illinois Department of Central Management Services; and Robin Tisdale (by telephone), Illinois Historic Preservation Agency.

III. APPROVAL OF MINUTES OF REGULAR OPEN MEETING HELD JANUARY 20, 2012

**IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER FITZGERALD, AND THE MOTION ADOPTED 3-0 TO APPROVE THE MINUTES OF THE REGULAR OPEN MEETING HELD ON JANUARY 20, 2012.**

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<sup>1</sup> Commissioner Dalianis arrived at 11:32 a.m.

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IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

**A. Report on Exempt Positions from Illinois Dept. of Central Management Services**

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging.....	142.....	10
Agriculture .....	355.....	16
Arts Council .....	19.....	2
Capitol Development Board .....	44.....	0
Central Management Services .....	1,609.....	114
Children and Family Services.....	2,878.....	49
Civil Service Commission.....	4.....	0
Commerce & Economic Opportunity .....	391.....	67
Commerce Commission .....	77.....	0
Corrections .....	11,469.....	105
Criminal Justice Authority.....	64.....	5
Deaf and Hard of Hearing Comm.....	7.....	1
Developmental Disabilities Council .....	9.....	1
Emergency Management Agency.....	91.....	6
Employment Security .....	1,787.....	25
Environmental Protection Agency.....	855.....	16
Financial & Professional Regulation .....	463.....	42
Gaming Board .....	116.....	5
Guardianship and Advocacy .....	102.....	7
Healthcare and Family Services .....	2,150.....	26
Historic Preservation Agency.....	176.....	10
Human Rights Commission.....	14.....	2
Human Rights Department .....	145.....	8
Human Services.....	12,953.....	76
Illinois Sentencing Policy Advisory Council.....	2.....	2
Illinois Torture Inquiry Relief Commission .....	2.....	1
Insurance .....	253.....	13
Investment Board .....	2.....	1
Juvenile Justice.....	1,235.....	20
Labor .....	91.....	9
Labor Relations Board Educational .....	11.....	2
Labor Relations Board State.....	17.....	2
Law Enforcement Training & Standards Bd. ....	18.....	2
Lottery .....	149.....	3
Medical District Commission.....	2.....	0
Military Affairs.....	120.....	3
Natural Resources.....	1,188.....	28
Pollution Control Board .....	21.....	1
Prisoner Review Board.....	19.....	0
Property Tax Appeal Board.....	25.....	1
Public Health .....	1,073.....	41
Racing Board.....	2.....	1
Revenue.....	1,743.....	52
State Fire Marshal .....	143.....	12
State Police.....	1,227.....	5
State Police Merit Board .....	5.....	1
State Retirement Systems .....	88.....	2
Transportation .....	2,483.....	0
Veterans' Affairs .....	1,308.....	8
Workers' Compensation Commission.....	132.....	8
TOTALS.....	47,279.....	812

**B. Governing Rule – Section 1.142 Jurisdiction B Exemptions**

- a) The Civil Service Commission shall exercise its judgment when determining whether a position qualifies for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code. The Commission will consider any or all of the following factors inherent in the position and any other factors deemed relevant to the request for exemption:
  - 1) The amount and scope of principal policy making authority;
  - 2) The amount and scope of principal policy administering authority;
  - 3) The amount of independent authority to represent the agency, board or commission to individuals, legislators, organizations or other agencies relative to programmatic responsibilities;
  - 4) The capability to bind the agency, board or commission to a course of action;
  - 5) The nature of the program for which the position has principal policy responsibility;
  - 6) The placement of the position on the organizational chart of the agency, board or commission;
  - 7) The mission, size and geographical scope of the organizational entity or program within the agency, board or commission to which the position is allocated or detailed.
- b) The Commission may, upon its own action after 30 days notice to the Director of Central Management Services or upon the recommendation of the Director of the Department of Central Management Services, rescind the exemption of any position that no longer meets the requirements for exemption set forth in subsection (a). However, rescission of an exemption shall be approved after the Commission has determined that an adequate level of managerial control exists in exempt status that will insure responsive and accountable administrative control of the programs of the agency, board or commission.
- c) For all positions currently exempt by action of the Commission, the Director of Central Management Services shall inform the Commission promptly in writing of all changes in essential functions, reporting structure, working title, work location, position title, position number or specialized knowledge, skills, abilities, licensure or certification.
- d) Prior to granting an exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the Commission will notify the incumbent of the position, if any, of its proposed action. The incumbent may appear at the Commission meeting at which action is to be taken and present objections to the exemption request.

(Source: Amended at 34 Ill. Reg. 3485, effective March 3, 2010)

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**C. Requests for 4d(3) Exemption**

Executive Director Daniel Stralka reported:

- As to Item C, this request is for the Division Manager of Preservative Services and Deputy State Historian in the Illinois Historic Preservation Agency, a position that reports to the Deputy Director who reports to the Director. As Division Manager, this position is the principal policy implementer for the agency's preservation program. The preservation program provides services under the Federal Historic Preservation Act in surveying and inventorying historic properties, reviews applications for historic properties, ensures historic properties are considered in land use determinations, and assists local governmental units in developing historic preservation programs. In addition, it provides similar services for a variety of State-mandated programs. The Deputy State Historic Preservation Officer under the Director is a position mandated by the Federal Historic Preservation Act which ensures that the State's programs comply with the Federal Act. These programs are essential to the mission of the agency as set forth in the Illinois Historic Preservation Act and other statutes. For these reasons, Staff recommended approval of this request.
- As to Item D, the agency requested this be continued to the March 16, 2012 meeting.

**IT WAS MOVED BY COMMISSIONER FITZGERALD, SECONDED BY COMMISSIONER KREY, AND THE MOTION ADOPTED 3-0 TO GRANT THE REQUEST FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITION:**

**C: Division Manager of Preservation Services  
(Illinois Historic Preservation Agency)**

**The following 4d(3) exemption request was granted on February 17, 2012:**

**C. Illinois Historic Preservation Agency**

Position Number	40070-48-30-000-00-02
Position Title	Senior Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Division Manager of Preservation Services
Incumbent	Vacant
Supervisor	Deputy Director who reports to the Director
Location	Sangamon County

**The following 4d(3) exemption request was continued to March 16, 2012:**

**D. Illinois Department of Central Management Services**

Position Number	40070-37-60-000-01-01
Position Title	Senior Public Service Administrator
Bureau/Division	Bureau of Property Management
Functional Title	Compliance and Accountability Officer
Incumbent	Vacant
Supervisor	Deputy Director of the Bureau of Property Management, who reports to the Chief Operating Officer, who in turn reports to the Director
Location	Cook County

V. CLASS SPECIFICATIONS

- None submitted.

**IT WAS MOVED BY COMMISSIONER FITZGERALD, SECONDED BY COMMISSIONER KREY, AND THE MOTION ADOPTED 3-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.**

VI. MOTION TO CLOSE A PORTION OF THE MEETING

**IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER FITZGERALD, AND BY ROLL CALL VOTE THE MOTION ADOPTED 3-0 TO CLOSE A PORTION OF THE MEETING PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.**

<b>KOLKER</b>	<b>YES</b>	<b>DALIANIS</b>	
<b>FITZGERALD</b>	<b>YES</b>	<b>KREY</b>	<b>YES</b>

VII. RECONVENE THE OPEN MEETING

Upon due and proper notice the regular open meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 11:21 a.m.

PRESENT

Chris Kolker, Chairman; Ares G. Dalianis, Garrett P. FitzGerald, and Susan Moylan Krey, Commissioners; Daniel Stralka, Executive Director; and Andrew Barris, Assistant Executive Director.

VIII. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code; however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Department of Central Management Services' Consecutive Non-Merit Report.

Agency	12/31/11	<b>1/31/12</b>	1/31/11
Aging	0	<b>0</b>	1
Central Management Services	1	<b>1</b>	0
Children and Family Services	2	<b>2</b>	4
Employment Security	6	<b>11</b>	6
Healthcare and Family Services	5	<b>2</b>	2
Historic Preservation Agency	1	<b>1</b>	1
Human Services	0	<b>1</b>	6
Natural Resources	8	<b>6</b>	15
Property Tax Appeal Board	0	<b>0</b>	1
State Fire Marshal	0	<b>1</b>	1
Transportation	4	<b>3</b>	11
Veterans' Affairs	1	<b>0</b>	0
Totals	28	<b>28</b>	48

IX. PUBLICLY ANNOUNCED DECISION RESULTING FROM APPEAL

**DA-29-12**

Employee	Julian Avila	Appeal Date	10/25/11
Agency	Veterans' Affairs	Decision Date	02/03/12
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Violation of Personal Conduct Rules	Proposal for Decision	Charge is proven and warrants discharge.

**IT WAS MOVED BY COMMISSIONER FITZGERALD, SECONDED BY COMMISSIONER KREY, AND BY ROLL CALL VOTE OF 3-0 THE MOTION ADOPTED TO REMAND THIS MATTER BACK TO THE ADMINISTRATIVE LAW JUDGE FOR THE PURPOSE OF TAKING ADDITIONAL EVIDENCE ON THE ISSUE OF THE RESPONDENT'S ACTIONS AS IT RELATES TO A STATUTE WHICH THE AGENCY CLAIMS REQUIRES TERMINATION AND THE EFFECT OF THE SUPERVISION ON THE "CONVICTION."**

**FURTHER, IT APPEARS FROM THE PROPOSAL FOR DECISION AND THE RESPONDENT'S MOTION TO REOPEN THE PROOFS THAT AVILA WAS REPRESENTING HIMSELF AND DID NOT FULLY UNDERSTAND THAT HE WAS ENTITLED TO CALL WITNESSES ON HIS OWN BEHALF REGARDING HIS ACTIONS AND TO HAVE THE AID OF COUNSEL WHEN PRESENTING HIS CASE AT THE HEARING IN THIS MATTER. RENDERING A FINAL DECISION IN THIS MATTER WOULD DEPRIVE THE RESPONDENT, WHO HAS SINCE ACQUIRED LEGAL COUNSEL, OF THE RIGHT TO A DEFENSE AS SET FORTH IN SECTION 11 OF THE PERSONNEL CODE. THE AGENCY WILL SUFFER NO UNDUE PREJUDICE FROM A REMAND. THE ADDITIONAL EVIDENCE WILL ASSIST THE COMMISSION IN RENDERING ITS DECISION IN THIS MATTER.**

X. APPEALS TERMINATED WITHOUT DECISION ON THE MERITS

**S-38-12**

Employee	LaVondas Young	Appeal Date	01/24/12
Agency	Human Services	Decision Date	02/07/12
Type	Suspension	ALJ	Andrew Barris
Charge(s)	Failure to follow policy and procedures	Proposal for Decision	Dismissed subject to approval of Commission; withdrawn.

**DA-41-12**

Employee	Lisa C. Murray	Appeal Date	1/30/12
Agency	Corrections	Decision Date	2/08/12
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Violations of Rules of Conduct	Proposal for Decision	Dismissed subject to approval of Commission; withdrawn.

**IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER FITZGERALD, AND BY ROLL CALL VOTE OF 3-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGES' PROPOSALS FOR DECISION TO DISMISS THE YOUNG AND MURRAY APPEALS FOR THE REASONS SET FORTH IN THE PROPOSALS FOR DECISION.**

**KOLKER            YES                    DALIANIS  
 FITZGERALD   YES                    KREY                    YES**

**XI. REVIEW OF AMENDMENTS TO THE OPEN MEETINGS ACT**

Assistant Executive Director Andrew Barris presented various issues that have arisen due to changes in the Open Meetings Act (OMA) effective January 1, 2012 and the applicability of these changes to the Civil Service Commission. Barris explained that the Commissioners had to complete OMA training by December 31, 2012. The website link to the training would be sent to the Commissioners. If there is a new appointee to the Commission, the appointee will have to complete the training within 90 days. The Commissioners will get a certificate upon completion of training that will be kept at the Commission office in Springfield. Barris explained that the training need only be completed once during their appointment. Barris pointed out some changes to the language used in the Commission's agenda such as the terms "Closed Session," "Call to Order," "Regular Open Meeting," and "Closed Portion of Regular Meeting."

For purposes of the OMA, Barris explained that both a majority and a quorum constitute three commissioners due to the fact that the Commission is a five member body. Barris explained that electronic attendance can only be used if three commissioners are physically present at the Commission office/public building. Barris explained that there were only three circumstances in which a Commissioner can attend the meeting electronically: personal illness, employment purposes, or a family or other emergency. Barris explained that it was ambiguous as to the method of agreement for the Commissioners in allowing electronic attendance. It was proposed that going forward the Commissioners agree to allow electronic attendance in accordance with Commission Rules/OMA statute unless a Commissioner specifically objects at the meeting.

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Assistant Executive Director Barris, Executive Director Stralka, and the Commissioners discussed the effect of the OMA statute requiring the Commission to allow public participation – especially in light of the Commission Rule which states that parties to an appeal cannot argue in front of the Commission unless the appeal involves “novel and precedent setting questions” and the request is made five days before the meeting. Commissioners Krey, FitzGerald, Dalianis, and Chairman Kolker each offered input on the effect of the OMA on the Commission such as the possibility of an attorney for a discharged employee re-arguing the discharge appeal under the authority of the OMA rule. It was the consensus of the Commissioners that more research and analysis should be done by Commission Staff on this issue by investigating other state boards and commissions affected by the OMA statute on public participation. If need be, the Civil Service Commission would amend its Rules to come into compliance with the OMA.

XII. STAFF REPORT

Executive Director Daniel Stralka updated the Commissioners on the status of the Springfield office lease and their Senate confirmation hearings.

XIII. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular open meeting to be held Friday, March 16, 2012 at 11:00 a.m. in the Commission’s Chicago office.

XIV. MOTION TO ADJOURN

**IT WAS MOVED BY COMMISSIONER DALIANIS, SECONDED BY COMMISSIONER KREY, AND THE MOTION ADOPTED 4-0 TO ADJOURN THE MEETING AT 11:43 A.M.**